

REMARKS/ARGUMENTS

A favorable reconsideration of this application is respectfully requested in view of the foregoing amendments and the following remarks.

Claims 1-7 were presented for examination, and Claims 2-6 are now present in the case.

Claims 1 and 7 have been cancelled without replacement.

Claim 2 has been amended to place it in more acceptable form.

Claims 3 and 4 have been amended to place them in more acceptable form and to change their dependency to that of Claim 2.

Claims 5 and 6 have been amended so that they now depend on Claim 2.

The Examiner has rejected Claim 7 under the second paragraph of 35 U.S.C. §112 as being indefinite and under 35 U.S.C. §101 as being an improper process claim. In view of the cancellation of Claim 7, this rejection is believed to have been mooted.

The Examiner has also rejected Claims 1-7 under the judicially created doctrine of "obviousness-type" double patenting as being unpatentable over Claims 1-6 of U.S. Patent No. 6,565,883. It is the Examiner's contention that although the conflicting claims are not identical, they are not patentably distinct from each other. As indicated by the Examiner, this rejection can be overcome by the filing of a Terminal Disclaimer. Accordingly, enclosed herewith is a duly executed Terminal Disclaimer which moots the "obviousness-type" double patenting rejection of Claims 1-7 (now Claims 2-6).

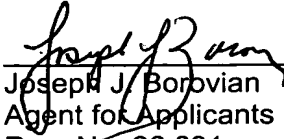
Lastly, the Examiner has rejected Claim 1 under 35 U.S.C. §102(b) as being anticipated by Cussler et al. (WO 95/03033). It is the Examiner's contention that certain specific teachings in the Cussler et al. reference clearly anticipate Claim 1. The legitimacy of this rejection aside, this rejection is believed to have been mooted by the cancellation of Claim 1.

All of the rejections of record having been overcome, the instant application is deemed to be in condition for allowance, and an early notice to that effect is earnestly solicited.

Please charge the \$110 fee required under 37 CFR §1.20(d) and any additional fees that may be required to Deposit Account No. 19-0134 in the name of Novartis Corporation. An additional copy of this page is enclosed.

Respectfully submitted,

Novartis
Corporate Intellectual Property
One Health Plaza, Building 430/2
East Hanover, NJ 07936-1080



Joseph J. Borovian
Agent for Applicants
Reg. No. 26,631
(862) 778-7801

JJB/ld

Encls.: Executed Terminal Disclaimer
Extra Copy of this Page
Postcard

Date: August 28, 2003